

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARLON LOUIS DANNER,

Defendant.

) INDICTMENT

CR 10-345 PJS/FLN

) (18 U.S.C. § 2)

) (18 U.S.C. § 1001(a)(2))

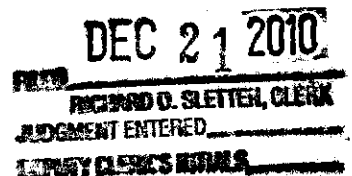
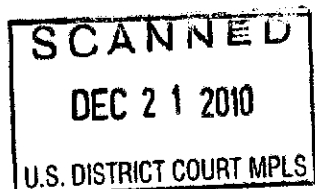
) (18 U.S.C. § 1341)

) (18 U.S.C. § 1343)

THE UNITED STATES GRAND JURY CHARGES THAT:

BACKGROUND

1. At all relevant times, defendant Marlon Louis Danner operated Danner, Inc. and Bull Dog Leasing, Inc. (hereinafter the "Danner trucking companies"), companies that supply trucks and drivers to various road construction projects in Minnesota.
2. At all relevant times, the Danner trucking companies had their principal place of business in South St. Paul, Minnesota.
3. In 2008 and 2009, truck drivers who were independent truck operators of the Danner trucking companies worked on a highway construction project, State Project #62-672-04, Federal Project #SPTX 8808(141), located on Highway 120/Century Avenue in Ramsey and Washington Counties of Minnesota (the "Century Avenue project").
4. The Century Avenue project was funded in part with federal funds. As such, the Danner trucking companies were required, and agreed by contract, to pay certain truck rental rates to the drivers hired for the project. Working in conjunction



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with the Federal Highway Administration, the Minnesota Department of Transportation (MnDOT) oversaw the allocation of the federal and state funds for the project.

5. In January and February 2010, investigators with the Minnesota Department of Transportation (MnDOT) conducted an investigation of the Danner trucking companies related to the Danner trucking companies' compliance with the mandated truck rental rate on the Century Avenue project. MnDOT determined that Danner, doing business as the Danner trucking companies, had underpaid its drivers on the project.
6. In February 2010, MnDOT reached a settlement with Danner over the underpayment. Under the settlement, Danner, on behalf of the Danner trucking companies, agreed to pay over \$185,000 collectively to approximately 27 truck drivers for work they performed on the Century Avenue project but had been previously underpaid ("MnDOT/Danner settlement").
7. In accordance with the terms of the MnDOT/Danner settlement, Danner arranged for checks to be issued from the Danner trucking companies to the 27 drivers as a repayment of wages (the "settlement checks"). Danner then provided the settlement checks, dated February 17 and 18, 2010, to MnDOT with the understanding that MnDOT would distribute the checks to the drivers.
8. On approximately March 2, 2010, MnDOT mailed a copy of each

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settlement check and a release form to each of the individual 27 drivers that were identified as being underpaid. After MnDOT received the signed release forms back from the drivers, MnDOT provided the actual checks to each of the drivers. Accompanying each settlement check was correspondence from a MnDOT investigator, which stated in part, "If you have any trouble cashing this check or someone attempts to coerce you to return any portion of the moneys please contact my office at 651-xxx-xxxx."

THE FRAUD SCHEME AND ARTIFICE

9. From in or about at least February 2010 through in or about June 2010, in the State and District of Minnesota and elsewhere, the defendant,

MARLON LOUIS DANNER,

aided and abetted by others known and unknown to the Grand Jury, knowingly devised and intended to devise a scheme and artifice to defraud and to obtain money and property from truck drivers for the Danner trucking companies by means of materially false and fraudulent pretenses, representations, promises, and concealment of material facts.

It was a part of the scheme that:

10. On approximately February 27, 2010, Danner began a campaign to obtain return of the MnDOT/Danner settlement funds from the drivers, without informing MnDOT that he was doing so.

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11. Beginning on or about February 27, 2010, Danner, located in Nevada, telephoned many of the drivers. He informed the drivers that when they received their money from MnDOT, they should give the money back, and that they should see the Danner trucking companies' office manager for information on how to write checks to return the money.
12. Among other things, the defendant informed certain drivers that the money did not belong to the them, and/or that MnDOT had made a mistake in concluding the drivers had been underpaid.
13. During one telephone call, when queried about what would happen if a driver kept the money instead of returning it to Danner, Danner replied, "What do you think is going to happen if you steal \$1,200 or \$1,500 or whatever that check [was for]?"
14. Among other things, the defendant informed at least one driver that he would provide receipts to the driver for the returned money, disguising the returned money as a business expense. These receipts could then be used by the driver for tax purposes so that the driver would not be required to pay income tax on the settlement money.
15. From March through May 2010, many of the drivers contacted the Danner trucking companies' office manager to return to Danner their settlement funds. The office manager, acting on

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Danner's instructions, directed drivers to write checks to various companies operated by Danner, including the Danner Family Partnership, Ell-Z Trucking, and Danner, Inc. (the "Danner entities"). Many drivers then received falsified receipts for these amounts, indicating that the checks written by the drivers were for "fuel," "rent" or "shop repairs." The purpose of these receipts, and the use of different entities for repayment of the settlement funds, was to conceal the nature of the repayment.

16. From March through May 2010, many of the drivers wrote checks to the Danner entities as directed by the defendant and through his office manager.
17. On or about May 10, 2010, a MnDOT representative delivered the drivers' signed release forms to Danner. At that time, the defendant falsely and fraudulently certified that the checks were issued without rebate from the Danner trucking companies. In fact, as Danner well knew, the checks were issued with rebate, because Danner had been repaid by many of the drivers for a substantial portion of the total settlement funds. Directly above the defendant's signature, the certification stated that "the willful falsification of any of the above statements may subject the contractor to civil or criminal prosecution under federal and/or state law."
18. By June 3, 2010, Danner had received over \$120,000 of the

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approximately \$185,000 paid out in MnDOT/Danner settlement funds, all returned from drivers who were requested or instructed to pay it back. Danner did not disclose to MnDOT, and affirmatively concealed, that he had received repayments. This omission was material to MnDOT.

COUNTS 1-6

(Wire Fraud)

18 U.S.C. § 1343

19. The Grand Jury re-alleges the allegations contained in paragraphs 1 through 18 of this Indictment.
20. On or about the dates set forth below, in the State and District of Minnesota and elsewhere, the defendant,

MARLON LOUIS DANNER,

aided and abetted by others known and unknown to the Grand Jury, for the purpose of executing and attempting to execute the above-described scheme and artifice, did knowingly cause to be transmitted, in interstate commerce, by means of wire communication, certain signals and sounds, including the interstate wire communications as further described below:

Count	On or About Date	Wire Communication
1	February 27, 2010	Telephone discussion between Danner in Nevada and S.G. in Minnesota regarding repayment of settlement funds

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2	February 27, 2010	Telephone discussion between Danner in Nevada and J.L. in Minnesota regarding repayment of settlement funds
3	February 28, 2010	Telephone discussion between Danner in Nevada and C.R. in Minnesota regarding repayment of settlement funds
4	March 1, 2010	Facsimile transmission of list of potential repayments from drivers, from Danner in Nevada to Danner, Inc. in South St. Paul, Minnesota
5	March 1, 2010	Telephone discussion between Danner in Nevada and W.G. in Minnesota regarding repayment of settlement funds
6	March 17, 2010	Telephone discussion between Danner in Nevada and B.R. in Minnesota regarding repayment of settlement funds

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 7-10

(Mail Fraud)

18 U.S.C. § 1341

21. The Grand Jury re-alleges the allegations contained in paragraphs 1 through 20 of this Indictment.

22. On or about the dates set forth below, in the State and District of Minnesota, the defendant,

MARLON LOUIS DANNER,

along with others known and unknown to the Grand Jury, each aiding and abetting the other, for the purpose of executing

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the above-described scheme and artifice, did knowingly cause to be delivered by the United States mail and interstate commercial carrier, according to the direction thereon, the matter particularly set forth and described below:

Count	On or About Mailing Date	Description	Sender	Recipient
7	March 2, 2010	Copy of settlement check and release form	MnDOT	J.S., driver for Danner trucking companies
8	March 9, 2010	Settlement check and accompanying letter	MnDOT	C.R., driver for Danner trucking companies
9	March 10, 2010	Settlement check and accompanying letter	MnDOT	J.E., driver for Danner trucking companies
10	March 10, 2010	Settlement check and accompanying letter	MnDOT	J.R., driver for Danner trucking companies

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 11

(False Statement)

23. The Grand Jury re-alleges the allegations contained in paragraphs 1 through 22 of this Indictment.

24. On or about May 10, 2010, the defendant,

MARLON LOUIS DANNER,

did knowingly and willfully make a false material statement

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and representation in a matter within the jurisdiction of the Federal Highway Administration, an agency of the United States, in that the defendant certified that he received the MnDOT Check Release forms for the checks issued without rebate from the Danner trucking companies. In truth, at the time the defendant certified that he had issued the checks without rebate, the defendant knew that he had received a large amount of the MnDOT/Danner settlement funds back from drivers, at his own request and direction; all in violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE ALLEGATIONS

Counts 1 through 10 of this Indictment are hereby realleged and incorporated as if fully set forth herein by reference, for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

As the result of the offenses alleged in Counts 1 through 10 of this Indictment, the defendant shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the violations of Title 18, United States Code, Sections 1341 and 1343.

If any of the above-described forfeitable property is

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unavailable for forfeiture, the United States intends to seek the forfeiture of substitute property as provided for in Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and by Title 28, United States Code, Section 2461(c).

All in violation of Title 18, United States Code, Sections 2, 981(a)(1)(C), 1341, 1343, and Title 28, United States Code, Section 2461(c).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON